

**ENVIRONMENTAL VARIANCE REQUEST REVIEW SHEET**

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**CASE:** SP-2010-0006D(R1)

**ZAP COMMISSION DATE:** November 1st, 2011

**PROJECT NAME:** Lone Star Bark Revision 1

**APPLICANT:** Lone Star Bank  
(Van P. Swift)

**AGENT:** ATX planning  
(Ted McConaghy)

**ADDRESS OF SITE:** 10901 W US 290 HWY

**COUNTY:** Travis

**AREA:** 9.534 acres

**WATERSHED:** Slaughter Creek

**JURISDICTION:** 5-mile ETJ

**EXISTING ZONING:** NA

**PROPOSED DEVELOPMENT:**

The applicant proposed to level the drive thru queue.

**DESCRIPTION OF VARIANCES:**

Variance requests is as follows:

1. LDC Sections 25-8-342, to allow fill not to exceed 7 feet.

**STAFF RECOMMENDATION:**

The findings of fact have been met. Staff recommends approval with no additional conditions because the project is minimal departure from the ordinance and was designed to minimize impact by using a retaining wall, which is an option often recommended by the Environmental Board.

**ENVIRONMENTAL BOARD ACTION:**

**October 5, 2011:** The Environmental Board recommended approval of the variance request from LDC Sections 25-8-342, to allow fill not to exceed 7 feet.

Vote: 4-0-0-3

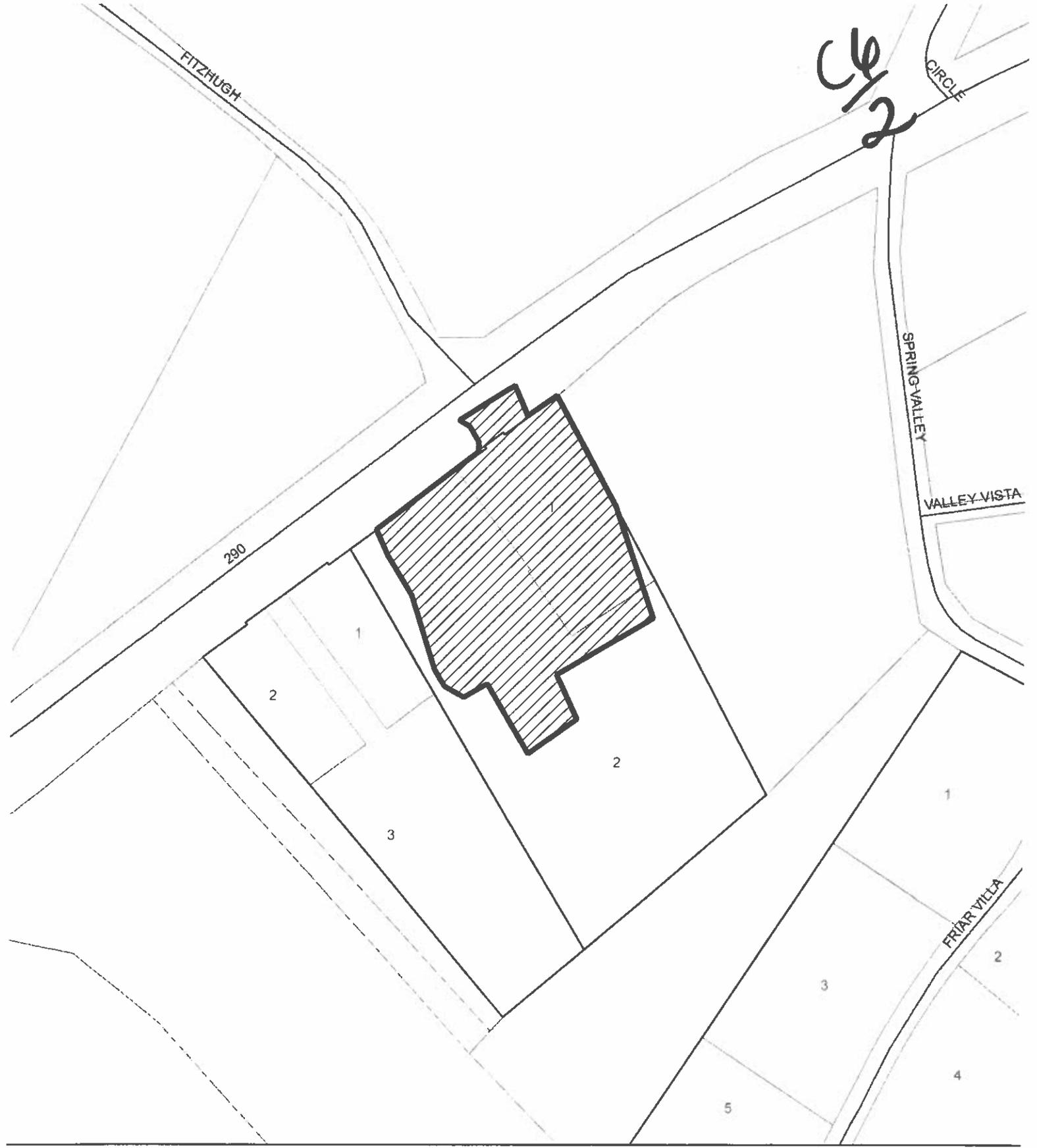
**ZAP COMMISSION ACTION:**

**ENVIRONMENTAL REVIEW STAFF:** James Dymkowski  
[James.dymkowski@austintexas.gov](mailto:James.dymkowski@austintexas.gov)

**PHONE:** 974-2707

**CASE MANAGER:** Benny Ho  
[benny.ho@austintexas.gov](mailto:benny.ho@austintexas.gov)

**PHONE:** 974-3402



LONE STAR BANK

SP-2010-0006D(R1)  
10901 W. US Hwy 290



-  Subject Tract
-  Base Map



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference.

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**ENVIRONMENTAL BOARD MOTION 100511 3a**

Date: October 5, 2011

Subject: Lone Star Bank Revision 1 SP-2010-006D(R1)

Motioned By: James Schissler

Seconded By: Robin Gary

**Recommendation:**

The Environmental Board Recommends approval to Land Development Code 25-8-342 to allow fill up to 7 feet for the Lone Star Bank Revision 1.

**Rationale**

The project is minimal departure from ordinance and was designed to minimize impact to the site by using a retaining wall, which is an option often recommended by the Environmental Board.

Vote 4-0-0-3

For: Gary, Maxwell, Perales and Schissler

Against:

Abstain:

Absent: Anderson, Neely and Walker

Approved By:

Mary Gay Maxwell,  
Environmental Board Chair



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## MEMORANDUM

**TO:** Betty Baker, Chairperson  
Members of the Zoning and Platting Commission

**FROM:** Jim Dymkowski, Environmental Review Specialist Sr.  
Planning and Development Review Department

**DATE:** October 5, 2011

**SUBJECT:** Lone Star Bank Revision 1 – SP-2010-0006D (R1)

Variance Requests: To allow fill up to 7 feet (LDC 25-8-342)

### Description of Project Area

The proposed development is located approximately 5 miles west of the intersection US Highway 290 and State Highway 71 on the south side of the intersection of US Highway 290 and Fitzhugh Road. The site is within the City of Austin 5 Mile ETJ. It is in the Slaughter Creek Watershed, which is classified as Barton Springs Zone. It is in the Edward's Aquifer Contributing Zone and the Drinking Water Protection Zone. The southwest corner of the property is nearest, at approximately 260' east of the centerline of Slaughter Creek. The nearest location of the site plan limits of construction is approximately 650 feet north of Slaughter Creek. Slaughter Creek is classified as an Intermediate Waterway in this area, with a very small portion of its water quality transition zone setback falling within the southwest corner of the property, but not within the limits of construction for this site plan.

This revision is required to allow for the leveling of the drive thru queue, the drives leading to the drive thru area in the rear of the building, and to level a small portion of the drive area adjacent to the west side of the building. The quantity of proposed fill to accomplish the revision is approximately 1,855 cubic yards and covers an area of approximately 16,180 square feet. This is the first formal revision to the original 2010 site plan that was approved in February of this year with construction beginning soon after on the bank building, associated site parking, water quality/detention facilities, and utilities. Within the Barton Springs Zone, water quality is required for all new development. This is being accomplished by constructing a water quality/detention pond with re-irrigation. The maximum allowable impervious cover for this watershed is 25%, or approximately 2.36 acres for the upland portion of the site. A total of 1.85 acres (or 19.07% net site area) of impervious cover was originally and is still being proposed.

### Vegetation

The Environmental Assessment documents that this property was formerly used for livestock grazing. The vegetation is typical fauna situated within the Edwards Plateau region. The majority of forest over

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story consists of Live oaks and Cedar Elms, while the mid-grass and shrub understory is dominated by little bluestem, Agarita, Prickly pear, and other native grass. Due to the projects location toward the front of the site limiting site disturbance the majority of the land has been preserved in its natural state.

**Critical Environmental Features**

An Environmental Assessment was performed on this site in 2007 with the initial site plan submittal, re-reviewed in 2008 and again in 2010 with the final approved site plan. There were no CEF's found on-site.

**Water/Wastewater**

This project will receive its water from LCRA. Wastewater will be handled by the construction of a new stand alone septic system near the southeast corner of the property.

**Variance Request**

A variance from LDC Section 25-8-342: Fill requirements.

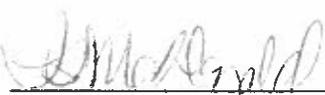
This revision is required to allow for the leveling of the drive thru queue, the drives leading to the drive thru area in the rear of the building, and to level a small portion of the drive area adjacent to the west side of the building. When the site plan was originally approved there were two areas that required fill greater than four feet. One area was within the building footprint, and the other was required for the water quality/ detention pond berms to allow for the required storage capacity of the pond. The fill beneath the building does not require a variance per current code. While the pond fill was approved with an administrative variance as the current code allows. The applicant's engineer was not aware of the slope limitations for the drive thru area as this would have been addressed then.

Although located in 5 mile ETJ, where tree preservation is not regulated by City of Austin Zoning regulations, the proposed construction has been located as far toward the front of the property as possible to limit impervious cover and site disturbance in this sensitive watershed and to preserve trees. The site natural grade begins to slope immediately from US 290 toward the rear of the property at only a 10-15%, and although this is not an extreme slope there is a twelve foot variation in grade from the front of the property to the area requiring this variance. As a result, the maximum of 7 feet of fill will be required. The majority of the fill area is only receiving 5 feet of necessary fill.

**Similar Cases**

Although both staff and the applicant were able to find past projects approved with this type of variance request none were within the same watershed or at such a small scale for the fill requested. Therefore, no similar cases could be provided.

Jim Dymkowski, Environmental Review Specialist Senior  
Planning and Development Review Department

Environmental Program Manager:   
Ingrid McDonald

Environmental Officer:   
Jeah Drew



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**Planning and Development Review Department  
Staff Recommendations Concerning Required Findings  
Water Quality Variances**

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**Application Name:** Lone Star Bank Revision 1  
**Application Case No:** SP-2010-0006D(R1)  
**Code Reference:** LDC Section 25-8- 342  
**Variance Request:** To allow fill up to 7 feet.

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**A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:**

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

*Yes. Design criteria dictate a more level grading requirement for the approach to and within the bank drive thru area to allow for a safe and functional operation. These requirements must be met by all similarly situated and contemporaneously built banks in the area. To meet these design requirements, the applicant proposes fill up to 7 feet.*

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

*Yes. To allow for a safer, level approach to and within the drive thru area, fill is required to offset the elevation change of approximately twelve feet from the front to the rear of the project. This is only an issue as the current design places the building closer to the front of the site to help limit impervious cover and site disturbance to preserve trees in this sensitive watershed.*

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

*Yes. The majority of the proposed fill at approximately 5 feet not to exceed 7 feet is the minimum necessary to ensure the safe and functional use of the drive thru area.*

- c) Does not create a significant probability of harmful environmental consequences; and

*Yes. This variance will not increase harmful environmental consequences. The fill area will be structurally stabilized while allowing the project to continue to limit its site disturbance in a sensitive watershed while preserving additional trees. The project with the associated variance is also not proposing any increase in impervious cover, or impact to or reduction in the adjacent water quality transition zone of Slaughter Creek at the southwest corner of the property.*

*Left*

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

*Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. The fill area will be contained behind the proposed retaining wall and beneath the proposed asphalt drive. The original site plan was also designed to meet the SOS standard for non-degradation of water quality through the use of the retention/re-irrigation pond proposed.*

**B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):**

1. The above criteria for granting a variance are met;

*N/A.*

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

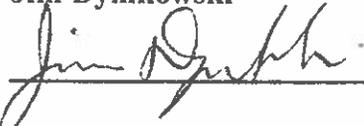
*N/A.*

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

*N/A.*

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**Reviewer Name:** Jim Dymkowski

**Reviewer Signature:** 

**Date:** September 21, 2011

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*Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).*

U/A

July 20, 2011

Betty Baker, Chair  
Zoning and Platting Commission  
City of Austin  
505 Barton Springs Rd.  
Austin, TX 78704

Re: Variance Request  
Lone Star Bank site plan (Revision #1)  
SP-2010-0006D (R1)

Mrs. Baker:

On behalf of our client, pursuant to Section 25-8- 41 of the L.D.C., we are requesting a variance from Section 25-8-342 of the L.D.C. The variance would allow fill between 4' and 8' in the drive aisles surrounding Building #1.

The Findings of Fact for this case are as follows:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? *Yes. As with most properties in this location, the subject property slopes steeply away from the adjacent roadway (US 290 W). There is a large cluster of trees between the building/drive aisles and the water quality facility. Developing the site without the variance would require locating the building/drive aisles further down the slope and would require demolition of the tree cluster. There have been numerous projects over the last several years that have been granted variances for Cut and/or Fill in excess of 4' to construct building/drive aisles (see Travis County Eastside Service Center, SP-2008-0235D; Airport Fast Park Phases III and IV, SP-2007-0736D; Domain PDA; Tech Ridge Center Phase IV; Woodlands at Lake Creek, SP-05-1466C.)*
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequence? *Yes. The maximum fill proposed is 7' which is a minimum departure from the terms of the ordinance, and all areas of fill between 4' – 7' will be contained within retaining walls or non-erodable slopes.*
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land?



Ue/a

*Yes. The property was subdivided into two lots with the intent of locating the developed area as close to the adjacent roadway as possible to reduce impervious cover, and keep the developed area as far away from the nearby Water Quality Transition Zone. Any reasonable subdivision of the land would adhere to these principals of land development.*

4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? *Yes. The proposed retention/re-irrigation water quality facility has been designed to provide water quality equal to or better than if the development had proceeded without the variance. If the site is developed without the variance, the developed area must be located further away from the adjacent roadway and would result in an increase in impervious cover and a reduction in water quality.*

5. For a variance from the requirements for development within the Critical Water Quality Zone or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? *Not applicable; the development in this property is not located with the CWQZ or the WQTZ.*

If you have any questions regarding this variance request please contact me at (512) 583-2600 or my associate, Mr. Ted McConaghy, at (512) 426-9326.

Sincerely,

*Joe Grasso*  
Joe Grasso, P.E.

Doucet & Associates, Inc.  
Authorized Agents, Lone Star Bank



7-25-11